?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
%DATED: 23.04.2019
*CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

+W.P.(MD).No.4730 of 2019
and
W.M.P.(MD)No.3785 of 2019

#PKC Mahal Administrative Society,
Rep. by its Secretary,
P.M.Karunanidhi,
having office at,
Karpaga Nagar, K.Pudur,
Madurai ? 7. ... Petitioner

Vs.

$1. The District Registrar,
Madurai North,
Registration Office,
Madurai.

2. C.Thanislas

3. Tamil Nadu Parkavakula Sangam,
No.19, Metha Nagar Main Road,
Chennai ? 29,
Rep. through its
General Secretary,
T.Kasi Viswanatha Udayar.
(R~3 is impleaded vide order dated 01.04.2019
in W.M.P.(MD)No.6032 of 2019) ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 12.02.2019 in Na.Ka.No.3790/E1/2018 of the first respondent and quash the same.

!For Petitioner : Mr.AN.Ramanathan
^For R~1 : Mr.M.Murugan,
Government Advocate.
For R~2 : Mr.T.K.Gopalan
For R~3 : M/s.M.D.Devi Saravana Priya

:ORDER

The Writ petitioner is a society registered under the provisions of the Tamil Nadu Act 27 of 1975, bearing registration No.174 of 2018 on the file of the District Registrar of Societies, Madurai North. The petitioner society was formed for running a community hall that belongs to Parkavakula community, in Madurai. In the memorandum and byelaws of the society, the community hall situated at Karpaga Nagar, K.Pudur, Madurai, has been mentioned as the office address of the petitioner society. The second respondent herein submitted a complaint dated 24.10.2018 for cancellation of the registration itself.

2. The complaint given by the second respondent was enquired into and the impugned order dated 12.02.2019 came to be passed. In the impugned order, the first respondent has directed the petitioner to amend the office address and file a new Form~V mentioning the new address. This order is under challenge in this Writ petition.

3. The second respondent has filed a detailed counter affidavit.

4. The learned counsel appearing for the second respondent submitted that the Tamil Nadu Parkavakula Sangam is having its head quarters at Chennai. It is having branches all over Tamil Nadu and the second respondent was elected as the President of the Madurai District Parkavakula Sangam in the election that was held on 08.10.2017. The election of the second respondent was approved by the head office. The specific allegation of the second respondent is that a rival group which could not reconcile itself to the election of the second respondent, had formed the petitioner society in order to grab the community property. Vide sale deeds dated 30.11.1994 and 10.10.1995, Madurai unit of the Tamil Nadu Parkavakula Sangam purchased a vacant site and a community hall was constructed with the help of donations from the members. The community hall has also been assessed to property tax by the Madurai Corporation. It can be seen therefrom that it is only the Tamil Nadu Parkavakula Sangam that is the owner of the said property. The petitioner does not have any title or right over the said property. The petitioner could not have shown the community hall as its office address. The second respondent rightly complained to the first respondent and the first respondent rightly passed the impugned order. It is submitted that the impugned order does not warrant any interference.

5. The learned counsel appearing for the Writ petitioner took me through the materials enclosed in the typed set of papers. He pointed out that after purchasing the vacant site in the year 1994~1995, a construction committee was formed in the year 1999. Since the funds raised and contributed by the members of the community was not sufficient, it was decided to collect Rs.25,000/~ each from 55 members based in Madurai. It was also decided that the said 55 donors would be permanent members in the Mahal Administrative Committee. In fact the foundation stone laid reflects the names of the 55 donars.

6. In the general body meeting of Madurai branch held on 02.07.2017, it was decided that the administration of the marriage hall should be independently done and therefore the resolution was passed in that regard on 02.07.2017. The petitioner-s counsel pointed out that the second respondent

had also signed in the said resolution and the petitioner-s society was formed only on the basis of the said resolution. Thereafter byelaws were framed and presented for registration before the first respondent on 04.10.2018 and registered.

7. Thereafter, the second respondent submitted a complaint dated 24.10.2018 and based on the said complaint, notice was issued to the petitioner by the first respondent. The petitioner submitted a detailed explanation on 21.12.2018. Though the first respondent relegated the second respondent herein to move the jurisdictional civil Court, a direction was issued for changing the office address in the byelaws and to file Form~V.

8. The petitioner-s counsel would contend that the impugned order is lacking in jurisdiction. The first respondent has referred to Section 38 of the Tamil Nadu Societies Registration Act. But then, Section 38 of the Act does not cover the case on hand. He further pointed out that the second respondent having been a party to the resolution dated 02.07.2017 cannot now lodge a complaint.

9. I carefully considered the rival contentions.
10. As per Section 13 of the Tamil Nadu Societies Registration Act, every registered society shall have a registered office to which all communications and notices may be addressed and shall file with the Registrar notice of situation of such office and of any change thereof. In the case on hand, the petitioner-s registered office has been shown as P.K.C.Mahal, Karpaga Nagar, K.Pudhur, Madurai~7. It is relevant to note here that after receiving the complaint from the second respondent, the first respondent issued notice dated 27.11.2018 calling upon the petitioner to respond to the second respondent-s complaint and the said notice is addressed only to ?P.K.C.Mahal, Karpaga Nagar, K.Pudhur, Madurai ? 7?. The fact that the Writ petitioner received the said notice and also responded would prima facie indicate that the petitioner is very much functioning at the address given by them. It is not as if, the petitioner has given an address in which they are not actually functioning. Section 13 of the Act only mandates that every registered society shall have a registered office to which all communications and notices may be addressed.

11. In the case on hand, the communications addressed by the first respondent was actually received by the Writ petitioner at the said address. Admittedly, the second respondent does not claim to be the owner of the property in question. Therefore, the first respondent need not take cognizance of the complaint given by the second respondent. In fact the second respondent in his complaint wanted the first respondent to cancel the very registration itself by invoking the Circular No.67, dated 03.11.2011 issued by the Inspector General of Registration. It is known that the said Circular has since been withdrawn. The first respondent rightly took the stand that in view of the withdrawal of the Circular No.67, dated 03.11.2011, there is no need to take further action. It was further rightly observed that in the event of there being a property dispute between the rival claimants, the jurisdictional civil Court can always be approached. After correctly proceeding in the matter, the first respondent chose to issue the impugned

direction for amending the memorandum and byelaws with regard to the registered office address of the petitioner-s society. As rightly contended by the petitioner-s counsel, there is no statutory provision which authorises the first respondent to issue the said direction. I concur with the petitioner-s contention that it is without jurisdiction. This portion of the impugned order stands quashed. It is needless to mention that the second respondent is at liberty to move the jurisdictional civil Court with regard to the right over the property in question. It is made clear that the rights of the parties have not been adjudicated and they are left open. The interference made in the Writ petition is only to the limited extent as indicated above.

12. This Writ petition stands partly allowed. No costs. Consequently, connected Miscellaneous petition is closed.

To

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